

Appendix E – Documents Cited in Mitchell Affidavit

Source¹	Endnote	Previous Use	Cited in Other Affidavits, Declarations, or Filings	Reasons Inadmissible and/or Immaterial²
11 September 2001 Hijackers, https://www.cia.gov/news-information/speeches-testimony/2002/DCI_18_June_testimony_new.pdf	1-2, 7			Hearsay, FRE 602, Preliminary investigative material
Final Report of the National Commission on Terrorist Attacks Upon the United States [“9/11 Report”]	3, 22, 32-36, 45-47, 49, 56, 65, 72-73, 120-21, 123, 132-37, 141-43, 152-55, 159-62, 165, 168-69, 177-84, 186-88, 190, 217-19, 228, 244-47, 251-57, 290-91, 294-97, 299-303, 310-15, 318-321	Averment	Rapawy Exs. 1-3	Generally admissible. As cited in endnotes 49, 56, 65, 123, 132, 137, 141, 154-55, 160-61, 177-79, 184, 186-87, 228, 244, 247, 251-55, 257, 295-96, 302-03, and 318-20, inadmissible as hearsay
Substitution for the Testimony of Khalid Sheikh Mohammed, Defendant’s Trial Exhibit #941, <i>United States v. Moussaoui</i> , No. 01-455-A (E.D. Va. 2006), http://www.vaed.uscourts.gov/notablecases/moussaoui/exhibits/defense/941.pdf	4-6, 8-21		Tarbutton Ex. 69	Hearsay, FRE 602, Preliminary investigative material

¹ Document descriptions, other than bracketed text indicating commonly-used short-form descriptors, are taken directly from the Affidavit. Their use is for convenience only and should not be taken as a concession that the descriptions are accurate.

² Defendant’s objections to the cited documents are made for purposes of the pending motion to dismiss. Defendant reserves the right to move to exclude, or to assert additional objections, in the event that any party seeks to admit any of the cited documents into evidence in any future proceeding.

Appendix E – Documents Cited in Mitchell Affidavit

Source	Endnote	Previous Use	Cited in Other Affidavits, Declarations, or Filings	Reasons Inadmissible and/or Immaterial
Amita Sharma, Islamic Cleric Raised Red Flags While in San Diego, http://www.kpbs.org/news/2010/jun/10/islamic-cleric-raised-red-flags-while-san-diego/	23			Hearsay, FRE 602
Washington Post, Legal memo backing drone strike that killed American Anwar al-Awlaki is released (June 23, 2014), https://www.washingtonpost.com/world/national-security/legal-memo-backing-drone-strike-is-released/2014/06/23/1f48dd16-faec-11e3-8176-f2c941cf35f1_story.html?utm_term=.59e5adc71fe6	24		Hearsay, FRE 602	
Government's Sentencing Memorandum, Supplemental Factual Appendix 13 (ECF Doc. 130), <i>United States v. Abdulmutallab</i> , No. 2:10-cr-2005 (E.D. Mich. 2005), http://www.washingtonpost.com/wp-srv/world/documents/umar-farouk-abdul-mutallab-sentence-brief.pdf?tid=a_in1	25			Hearsay, FRE 602
FBI FD-302 of Umar Farouk Abdulmutallab (Dec. 25, 2009) (part of FBI Docs – Aulaqi and Abdulmutallab)	25			Hearsay, FRE 602, FRE 901, Preliminary investigative material
Duncan Gardham, British Airways Bomber Jailed for 30 Years, http://www.telegraph.co.uk/news/uknews/terrorism-in-the-uk/8391162/British-Airways-bomber-jailed-for-30-years.html	26			Hearsay, FRE 602
David Johnson and Scott Shane, U.S. Knew of Suspect's Tie to Radical Cleric, http://www.nytimes.com/2009/11/10/us/10inquire.html	27			Hearsay, FRE 602

Appendix E – Documents Cited in Mitchell Affidavit

Source	Endnote	Previous Use	Cited in Other Affidavits, Declarations, or Filings	Reasons Inadmissible and/or Immaterial
http://www.telegraph.co.uk/news/uknews/terrorism-in-the-uk/8102883/Al-Qaeda-plot-flight-ban-on-freight-from-Somalia.html	28			Hearsay, FRE 602
Scott Shane, The Lessons of Anwar al-Aulaqi, https://www.nytimes.com/2015/08/30/magazine/the-lessons-of-anwar-al-Aulaqi.html	29-31			Hearsay, FRE 602
https://kingfahadmosque.org/ ; https://kingfahadmosque.org/contacts/about-us/	37-39			Hearsay
9/11 Commission Memorandum for the Record, Interview of Fahad al-Thumairy (Feb. 23, 2004)	40, 170-75	Aver. Ex. 31 (ECF No. 2930)	Kreindler Ex. 3; Tarbutton Ex. 24	Hearsay, FRE 602, Preliminary investigative material
ISIS Magazine <i>Dabiq</i> , Issue 7: “Ibn Taymiyyah said: ‘The basis of religion is a guiding book and supporting sword.’” https://azelin.files.wordpress.com/2015/02/the-islamic-state-e2809cdc481biq-magazine-722.pdf	41			Hearsay, FRE 901, Preliminary investigative material
S. Select Comm. on Intelligence and H.R. Permanent Select Comm. on Intelligence, Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001 (2002) [pages 415-443 constitute “Part Four” or the “28 pages”]	42-44, 47, 133, 140, 144, 147-50, 156, 166-68, 196, 198-202, 204, 210-16, 221-26, 261-65, 267-68, 270, 274-77, 304, 306-09		Consol. Am. Compl., Appx. 2 (ECF Nos. 3463-2-3); Kreindler 13; Tarbutton Ex. 12	Hearsay, FRE 602, Preliminary investigative material
FBI Electronic Communication (May 18, 2004) from Atlanta to Counterterrorism, Los Angeles, and San Diego Re: Mihdar Mohammad Al-Mihdar Zaid (FOIA request production published by INTELWIRE)	47	Aver. Ex. 47 (ECF No. 2930)	Tarbutton Ex. 48	Hearsay, FRE 602, FRE 901, Preliminary investigative material

Appendix E – Documents Cited in Mitchell Affidavit

Source	Endnote	Previous Use	Cited in Other Affidavits, Declarations, or Filings	Reasons Inadmissible and/or Immaterial
FBI Electronic Communication from Los Angeles to Counterterrorism and San Diego (January 8, 2002) Re: Ziyat Kharfan (FOIA request production published by INTELWIRE)	47		Tarbutton Ex. 54	Hearsay, FRE 602, FRE 901, Preliminary investigative material
FBI FD-302 Re: Canvass of Various Hotels on Sepulveda Boulevard (Jan. 15, 2002) (3 Versions) (FOIA request production published by INTELWIRE)	47-48, 69-71		Tarbutton Exs. 56-58	Hearsay, FRE 602, FRE 901, Preliminary investigative material
FBI FD-302 of Qualid Benomrane (Mar. 6, 2002) (File # 265A-LA-280901) (FOIA request production published by INTELWIRE)	50-54, 57-64		Tarbutton Ex. 53	Hearsay, FRE 602, FRE 901, Preliminary investigative material
Updates and Initiatives (as of 5 October 2012) (ECF Document 3463-4) [“Florida Bulldog Memorandum”]	54-55, 68, 118-19, 191-92, 194-95, 242, 248-50, 316-17		Consol. Am. Compl. Appx. 3 (ECF No. 3463-4); Kreindler Ex. 2; Tarbutton Ex. 10	Hearsay, FRE 602, FRE 901, Preliminary investigative material
FBI Electronic Communication from Los Angeles to Counterterrorism, “Fahad Althumairy (NON-USPER), IT – Other (UBL/AL-Qaeda)” (Oct. 25, 2002) (FOIA request production published by INTELWIRE)	54, 59, 61-64, 66-67, 243		Kreindler Ex. 19; Tarbutton Ex. 36	Hearsay, FRE 602, FRE 901, Preliminary investigative material
FBI FD-302 of Caysan Bin Don (Oct. 8, 2001) (FOIA request production published by INTELWIRE)	74-76, 78-79, 81-105, 107-16, 133, 138, 238-41		Tarbutton Ex. 59	Hearsay, FRE 602, FRE 901, Preliminary investigative material
9/11 Commission Memorandum for the Record, Interview of Omar Al-Bayoumi (Oct. 16-17, 2003)	74, 77, 122, 124-30, 220, 229, 322	Aver. Ex. 30 (ECF No. 2930)	Kreindler Ex. 6; Tarbutton Ex. 23	Hearsay, FRE 602, Preliminary investigative material
9/11 Comm. Memorandum for the Record, Interview of Caysan Bin Don (Apr. 20, 2004)	80, 104, 106, 117	Aver. Ex. 32 (ECF No. 2930)	Tarbutton Ex. 25	Hearsay, FRE 602, Preliminary investigative material

Appendix E – Documents Cited in Mitchell Affidavit

Source	Endnote	Previous Use	Cited in Other Affidavits, Declarations, or Filings	Reasons Inadmissible and/or Immaterial
FBI Electronic Communication to Counterterrorism from San Diego, “PENTTBOMB; MAJOR CASE 182” (Oct. 3, 2001) (FOIA request production published by INTELWIRE)	131, 150, 259, 276	Aver. Exs. 49-51 (ECF No. 2930)	Tarbutton Exs. 42-44	Hearsay, FRE 602, FRE 901, Preliminary investigative material
FBI, Connections of San Diego PENTTBOM Subjects to the Government of Saudi Arabia, FBI Letterhead Memorandum (undated) (FOIA request production published by INTELWIRE)	133, 197, 202-04, 209	Aver. Exs. 37-39 (ECF No. 2930)	Tarbutton Exs. 38-40	Hearsay, FRE 602, FRE 901, Preliminary investigative material
9/11 Commission Staffers Memorandum, “Updated Work Plans and Detailed List of Associates” (June 6, 2003), ECF Doc. 3463-5	139, 145, 189, 193, 205, 266		Consol. Am. Compl. Appx. 4 (ECF No. 3463-5); Kreindler Ex. 62	Hearsay, FRE 602, Preliminary investigative material
FBI San Diego Letterhead Memorandum, “Ali Ahmad Mesdaq; International Terrorism – Usama Bin Laden” (Jan. 28, 2002) (FOIA production published by INTELWIRE)	145-46		Tarbutton Ex. 55	Hearsay, FRE 602, FRE 901, Preliminary investigative material
FBI Letterhead Memorandum, “Anwar Nasser Aulaqi, IT-UBL” (Sept. 26, 2001) (part of FBI Report – Sept. 12, 2001)	151, 290-93	Aver. Exs. 54-55 (ECF No. 2930)	Tarbutton Exs. 71-72	Hearsay, FRE 602, FRE 901, Preliminary investigative material
S. Select Comm. on Intelligence and H.R. Permanent Select Comm. on Intelligence, Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001 (2002) [“Joint Inquiry”]	157-58, 163-64	Averment		Hearsay, FRE 602, Preliminary investigative material
9/11 Commission Memorandum for the Record, Interview of Fahad al-Thumairy (February 24-25, 2004)	176, 185	Aver. Ex. 31 (ECF No. 2930)	Kreindler Ex. 3; Tarbutton Ex. 24	Hearsay, FRE 602, Preliminary investigative material

Appendix E – Documents Cited in Mitchell Affidavit

Source	Endnote	Previous Use	Cited in Other Affidavits, Declarations, or Filings	Reasons Inadmissible and/or Immaterial
http://intelfiles.egoplex.com/2002-12-02-FBI-Mohamed-Ibrahim-Aliter.pdf	177			Hearsay, FRE 602, FRE 901, Preliminary investigative material
FBI Electronic Communication Re: “chronological summaries ECF references regarding possible ties of Al-Bayoumi to the Saudi Arabian Government, Embassies, or Consulates (no date) (part of FBI Report – Sept. 12, 2001)	196-97, 227	Aver. Ex. 36 (ECF No. 2927)	Tarbutton Ex. 37	Hearsay, FRE 602, FRE 901, Preliminary investigative material
Letter from Alawi Mohammed Saeed Kamel (Chairman, Dallah Avco) to H.E. Eng. Mohamed Ahmed Ai-Salmi (General Manager of Airway Engineering, Presidency of Civil Aviation) (dated 18/12/1419 A.H.) (corresponding to April 4, 1999)	206		Tarbutton Ex. 19	Hearsay
Letter from Engineer Muhammad Ahmad Al Salemi (General Manager of Airways Engineering) to His Excellency/Chairman of the Board of Directors of the Dallah Group (dated 20/12/1419G) (corresponding to April 6, 1999)	207		Tarbutton Ex. 20	
Letter from Alawi Mohammed Saeed Kamel (Chairman, Dallah Avco) to H.H./President of Civil Aviation (dated 21/12/1419 A.H.) (corresponding to April 7, 1999)	208		Tarbutton Ex. 21	Hearsay
Statement of Steven Emerson to the National Commission on Terrorist Attacks Upon the United States (July 9, 2003), https://govinfo.library.unt.edu/911/hearings/hearing3/witness_emerson.htm	226	Aver. Ex. 187 (ECF No. 2930)		Hearsay, FRE 602

Appendix E – Documents Cited in Mitchell Affidavit

Source	Endnote	Previous Use	Cited in Other Affidavits, Declarations, or Filings	Reasons Inadmissible and/or Immaterial
Josh Lefkowitz and Lorenzo Vidino, America's Homegrown Jihadist (Apr. 27, 2005), http://archive.frontpagemag.com/Printable.aspx?ArtId=8790	230-37			Hearsay, FRE 602
FBI FD-302 of Special Agent [Name Redacted] (Sept. 21, 2001) (part of "FBI Report – Sept. 12, 2001)	247		Tarbutton Ex. 62	Hearsay, FRE 602, FRE 901, Preliminary investigative material
9/11 Commission Memorandum for the Record, Interview of Osama Basnan (Oct. 21-22, 2003)	258, 260, 271-73, 279-82, 284	Aver. Ex. 34 (ECF No. 2930)	Tarbutton Ex. 27	Hearsay, FRE 602, Preliminary investigative material
FBI Document Complied by the JICI Task Force, ASAC Robert Blecksmith (Oct. 9, 2002) (FOIA Production Request by INTELWIRE)	269, 285-89		Tarbutton Ex. 41	Hearsay, FRE 602, FRE 901, Preliminary investigative material
https://www.washingtonpost.com/world/omar-abdelrahman-blind-sheik-convicted-in-1993-world-trade-center-attack-dies-at-78/2017/02/18/807c4f2c-f603-11e6-8d72-263470bf0401_story.html?utm_term=.023c15555c68	278			Hearsay, FRE 602
9/11 Commission, Memorandum for the Record, "Interview of FBI Special Agent [Name Redacted]" (Nov. 17, 2003)	283	Aver. Ex. 33 (ECF No. 2930)	Kreindler Ex. 12; Tarbutton Ex. 26	Hearsay, FRE 602, Preliminary investigative material
The Telegraph, "Hijackers in same hotel as Saudi minister" (Oct. 3, 2003), http://www.telegraph.co.uk/news/worldnews/middleeast/saudiarabia/1443191/Hijackers-in-same-hotel-as-Saudi-minister.html	304	Aver. Ex. 65 (ECF No. 2930)		Hearsay, FRE 602

Appendix E – Documents Cited in Mitchell Affidavit

Source	Endnote	Previous Use	Cited in Other Affidavits, Declarations, or Filings	Reasons Inadmissible and/or Immaterial
Susan B. Trenton and Joseph J. Trenton, Unsafe at Any Altitude: Failed Terrorism Investigations, Scapegoating 9/11, and the Shocking Truth About Aviation Security Today (2006)	305			Hearsay, FRE 602
Natana J. DeLong-Bas, Wahhabi Islam: From Revival and Reform to Global Jihad (2007)	323			Hearsay, FRE 602
Alastair Crooke, You Can't Understand ISIS if You Don't Know the History of Wahhabism in Saudi Arabia, Huffington Post (undated), http://www.huffingtonpost.com/alastair-crooke/isis-wahhabism-saudi-arabia_b_5717157.html	323			Hearsay, FRE 602
Distance from Los Angeles International Airport to the King Fahad Mosque at 10980 Washington Boulevard., Culver City, California as measured by mapquest.com	324			Hearsay, FRE 602
Distance from the Saudi Consulate at 2045 Sawtelle Boulevard, Los Angeles, California to the King Fahad Mosque at 10980 Washington Boulevard, Culver City, California as measured by mapquest.com	325			Hearsay, FRE 602
U.S. Department of Justice, Office of the Inspector General, A Review of the FBI's Handling of Intelligence Information Prior to the September 11 Attacks (Special Report) (November 2004)	326	Aver. Ex. 40 (ECF No. 2930)		Hearsay, FRE 602, Preliminary investigative material